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Before the  
Federal Communications Commission  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Digital Audio Broadcasting Systems and ) MM Docket No. 99-325  
Their Impact on the Terrestrial Radio )  
Broadcast Service )

To: The Commission

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COMMENTS OF WGN RADIO

WGN Continental Broadcasting Company, licensee of WGN(AM), Chicago, Illinois ("WGN"), hereby submits these recommendations concerning nighttime operation of AM In-Band/On-Channel digital radio. These comments are submitted in response to a Public Notice released on April 14, 2004, inviting comments on a proposal by the National Association of Broadcasters ("NAB") that the Commission authorize HD radio broadcasts for all AM stations currently authorized for nighttime operation.<sup>1</sup>

As discussed more fully below, WGN believes that the unlimited authorization of nighttime HD radio is premature at this time because it may unnecessarily create interference to existing AM service when there is no significant penetration of HD radios. For this reason, WGN proposes that the Commission authorize broadcasts of HD radio *only* from 5 a.m. to 7 p.m. without regard to the time of local sunrise and sunset. Although this limitation on the hours of nighttime HD Radio operation will not be appropriate indefinitely, WGN submits that at this time its proposal represents a more appropriate balance between the Commission's interest in

<sup>1</sup> See Public Notice, "Comment Sought on Use of Digital AM Transmissions During Nighttime Hours," MM Docket No. 99-325, DA 04-1007, released April 14, 2004.

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encouraging the deployment/development of HD radio with its interest in avoiding additional interference to the existing AM service.

**NAB's Proposal Goes Too Far At This Time:** As an AM station that has been in operation continuously since 1924, WGN has a keen interest in providing the best possible service to our listeners. WGN sees digital radio as an exciting enhancement to the existing service that will provide much-needed improvements in audio quality as well as new digital data services that were previously unavailable on the AM band.

WGN cannot, however, support the proposal by NAB and others that the FCC authorize immediately unlimited operation of HD radio by all stations authorized to operate at night. WGN submits that the NAB's proposal may unnecessarily cause severe interference to existing service at a time when there are very few digital receivers in the marketplace. Because the interference testing of nighttime HD radio done to date is limited in scope, the actual amount of interference to existing service could be more severe than predicted in the testing.

Indeed, the NAB's submission supporting unlimited operation of HD radio at night acknowledges that some stations will receive interference to their core service area: "[t]he results of the iBiquity tests and studies also showed that, in the *majority* of circumstances, any interference to existing groundwave analog broadcasts will occur at the edge of coverage and is not expected to impact a station's core listenership."<sup>2</sup> This sentence implicitly acknowledges that *some* AM stations will receive interference to their core listenership and it completely fails to quantify the number of stations expected to receive this interference.

Although the proponents of unlimited operation have tried to demonstrate that the value of the new service far outweighs any loss of existing service from interference, WGN

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<sup>2</sup> See Letter from Jack N. Goodman to Marlene H. Dortch in MM Docket No. 99-325, dated

disagrees with this assertion in the short-to-intermediate term because HD radio will reach so few listeners that it does not justify the risk of substantial interference created by the NAB proposal. As the Commission is well aware, the roll-out of any new Mass Media or consumer technology takes time to achieve meaningful penetration throughout the country. VCRs, CDs and DVDs did not find their way into consumer homes in significant numbers until several years after their introduction. A case in point is the current roll-out of digital television (“DTV”). Although many DTV stations have been operating for over 5 years and over 1200 DTV stations are currently on-the-air, DTV set penetration is still nowhere near the level needed to end the DTV transition. The DTV roll-out is an ongoing process requiring contributions from several different industries other than broadcasters (e.g., set manufacturers, program producers) and it is quite possible that DTV set penetration will not reach the level needed to end the transition for five more years.

No commentator, including NAB, has submitted any reliable evidence demonstrating that the transition to HD radio will somehow be faster than the DTV transition. What this clearly means is that the transition to HD radio will require time to achieve meaningful penetration. For this reason, during this start-up phase of the transition to HD radio, WGN urges the FCC to authorize the use of HD radio only between the hours of 5 a.m. and 7 p.m. without regard to the time of local sunrise and sunset. This proposal would give AM listeners HD radio during the all important morning and afternoon drive time periods as well as all day long. Additionally, receiver manufacturers would still have a meaningful assurance that HD radio broadcasts would be available to consumers and would thus have sufficient incentive to produce

digital radios. At the same time, existing AM radio services would be preserved for most of the night and would only be minimally affected on the longer days during summer months.

One advantage to the WGN proposal is that it would give the Commission time to evaluate how severe the interference from nighttime HD radio will ultimately be by observing the impact of HD radio on existing service during the pre-sunrise and post-sunset periods that will occur in the fall and winter of this year and next year. Ultimately, as more and more HD radios are sold in the marketplace, the Commission will be in a position to decide when there is sufficient penetration of new digital radios to justify the loss of service that may result from full time HD operation at night. Until that time, consumers will be better served by having their nighttime analog service preserved until it can be replaced by a vital new digital service.

**Interference Complaints:** Regardless of the action it takes regarding HD radio broadcasts at night, WGN urges the Commission to evaluate reported severe interference expeditiously and take any and all appropriate actions to eliminate or reduce interference to existing service during the start-up phase of the transition to digital radio.<sup>3</sup> In particular, WGN urges the Audio Division to designate specific staff (both engineering and legal) to review and resolve interference complaints on a fast track. Without such a step, the NAB's proposal that the Commission "use its existing authority to address instances of unexpected levels of interference on a case-by-case basis" will provide little meaningful protection to the public or AM stations.

**Digital Operation Notification Procedures Should be Maintained:** The NAB Letter urges the Commission to "establish nighttime authorization on a blanket basis for all

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<sup>3</sup> This recommendation is all the more important if the FCC allows unlimited nighttime HD radio operations given the limited evidence on the extent of interference that will be caused.

digital AM stations rather than requiring broadcasters to seek a separate nighttime authorization.”<sup>4</sup> To the extent the NAB’s proposal seeks to exempt nighttime HD radio operations from the notification procedures currently in place for HD radio during other dayparts, WGN opposes this proposal.<sup>5</sup> As noted above, the testing done to date on HD radio operations at night is limited and is insufficient to justify a blanket authorization of nighttime operations without a notification requirement in place. Among other things, the notification requirement will allow stations experiencing nighttime interference to identify the likely source(s) quickly and then take the appropriate steps to resolve that interference expeditiously including, if necessary, a complaint to the FCC.

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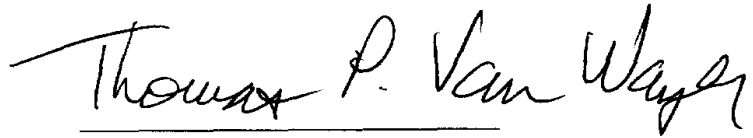
<sup>4</sup> See NAB Letter at 1.

<sup>5</sup> See Public Notice, “IBOC Notification Procedures Effective Immediately,” DA 03-381, released March 20, 2003.

**Conclusion:** For all these reasons, WGN respectfully requests that the Commission adopt a modified version of the NAB proposal by authorizing AM stations to transmit an AM IBOC signal only between the hours of 5 a.m. and 7 p.m. without regard to the time of local sunrise or sunset. Regardless of what the Commission decides on nighttime HD radio, WGN urges the Commission to take the steps necessary to investigate and resolve interference complaints, including designating specific Audio Division staff to review and resolve these complaints. Finally, given the limited test data available on nighttime HD radio operations, WGN urges the Commission to make the current HD radio notification procedures applicable to whatever nighttime HD radio operations it allows.

Respectfully submitted,

WGN CONTINENTAL BROADCASTING  
COMPANY

A handwritten signature in black ink, reading "Thomas P. Van Wazer". The signature is fluid and cursive, with the first name "Thomas" and last name "Wazer" being more prominent than the middle initial "P.". The signature is written over a horizontal line.

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Its Attorney

Dated: June 7, 2004